

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 8**

**SUPERIOR BEVERAGE GROUP, LTD.**

**Employer**

**and**

**Case No. 8-UC-398**

**CHAUFFEURS, TEAMSTERS, WAREHOUSEMEN AND  
HELPERS OF AMERICA, LOCAL NO. 377**

**Petitioner and Union**

**DECISION AND ORDER**

Upon a petition filed under Section 9(c) of the National Labor Relations Act (the Act), as amended, a hearing was held before a hearing officer of the National Labor Relations Board, (the Board).

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to me.<sup>1</sup>

Superior Beverage Group, Ltd. is an Ohio corporation located at 425 Victoria Road, Youngstown, Ohio 44515, the sole facility involved here, where it is engaged in the wholesale sales and distribution of wine and beer to retail establishments.

The Employer and the Petitioner/Union<sup>2</sup> are parties to a collective bargaining agreement, effective by its terms from June 1, 2005 through May 31, 2010. The recognized bargaining unit as described in that agreement is:

<sup>1</sup>The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed. The parties stipulated, and I find, that the Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction. The Petitioner is a labor organization within the meaning of the Act and claims to represent certain employees of the Employer. The parties filed posthearing briefs which I have carefully considered.

I also grant the parties joint motion to reopen the record to correct the testimony of Petitioner Union Steward Justin Averell.

<sup>2</sup>The parties also stipulated that they have had a bargaining history since 1963, when the Employer voluntarily recognized the Petitioner.

**All Youngstown/Steubenville and Akron/Canton drivers and warehousemen assigned to accounts within the contiguous counties of Mahoning, Trumbull, Columbiana, Harrison, Jefferson, Portage, Summit, Medina, Carroll, Stark, Tuscarawas, Wayne, Holmes, and Belmont, lift truck operators, over-the-road drivers, helpers, and casual employees employed by the Employer.**

The Petitioner seeks to clarify the bargaining unit to include all Cleveland drivers assigned to accounts within the counties of Cuyahoga, Lake, Geauga, and Ashtabula. It submits that these drivers share a sufficient community of interest with bargaining unit employees to constitute an accretion to the existing unit. The Employer contends these drivers do not share a sufficient community of interest with other unit employees to warrant their inclusion.

For the reasons set forth below, I find that the Cleveland drivers do not share a sufficient community of interest with employees in the existing bargaining unit. Accordingly, I find that the Cleveland drivers do not constitute an accretion to the recognized unit and shall order that this petition be dismissed.

## **FACTS**

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### **Existing Bargaining Unit Drivers**

The existing bargaining unit consists of two groups of drivers: Youngstown/Steubenville and Akron/Canton. There are approximately thirty drivers in the existing unit. The drivers deliver beer and wine to accounts in the fourteen contiguous Ohio counties of Mahoning, Trumbull, Columbiana, Harrison, Jefferson, Portage, Summit, Medina, Carroll, Stark, Tuscarawas, Wayne, Holmes, and Belmont.

The Employer has a warehouse in Youngstown, Ohio,<sup>3</sup> a cross-docking facility in Streetsboro, Ohio,<sup>4</sup> and a parking lot approximately 200 to 300 yards down the street from the Streetsboro cross-docking facility. All unit drivers work out of the Youngstown warehouse. The unit drivers' trucks are loaded at the Youngstown warehouse, not at the Streetsboro cross-docking facility. The unit drivers do not utilize the parking lot located approximately 200 to 300 yards down the street from the Streetsboro cross-docking facility.

The unit drivers operate tractor trailers and beer bay trucks. Accordingly, the unit drivers hold Class A commercial drivers licenses (CDL's). Their work day begins at 6 A.M. and they work approximately 8-10 hours per day. The Youngstown/Steubenville drivers are supervised by Gene Stevens and the Akron/Canton drivers are supervised by

<sup>3</sup> The Employer does not operate any other warehouses in the counties of Mahoning, Trumbull, Columbiana, Harrison, Jefferson, Portage, Summit, Medina, Carroll, Stark, Tuscarawas, Wayne, Holmes, and Belmont.

<sup>4</sup> The cross-docking facility is used by the Employer to offload and reload trucks.

Ryan Lewis. The unit drivers have a progressive pay rate structure starting at 75 percent of the \$415 per week base rate, progressing 5 percent per year over the next five years. The unit drivers' working conditions are dictated by the terms of the collective bargaining agreement. Among other benefits unique to the unit drivers are the Central States Pension Fund and the Teamsters Local 377 Health and Welfare Fund.

### **Cleveland Drivers**

On January 2, 2006, the Employer purchased a wine distributor with accounts in Cuyahoga, Lake, Geauga, and Ashtabula counties (Cleveland area accounts). Since its purchase of the wine distributor, the Employer has hired twelve drivers (Cleveland drivers) to service the Cleveland area accounts. The Cleveland drivers work out of the parking lot that is located approximately 200 to 300 yards down the street from the Streetsboro cross-docking facility. The Cleveland drivers' trucks are already loaded when they report to work. The Cleveland drivers do not utilize the Youngstown warehouse or cross-docking facility.

The Cleveland drivers deliver wine, and occasionally beer, to the Cleveland area accounts. These deliveries involve the operation of box vans, and the Cleveland drivers are not required to have the same CDL as the unit drivers. The starting times for the Cleveland drivers vary between 5:30 A.M. and 8:00 A.M., and they are supervised by John Guy. They earn the maximum base pay, \$600 per week, on their first day of work. Their benefits also differ significantly from those of the unit employees. For example, the Cleveland drivers participate in a 401K plan and the same health plan as the Employer's other non-union personnel, including management. In addition, the Cleveland drivers are eligible for both short and long-term disability programs. Finally, the Cleveland drivers enjoy a higher dollar amount of life insurance coverage.

### **THE CLEVELAND DRIVERS DO NOT CONSTITUTE AN ACCRETION TO THE EXISTING UNIT**

The Board has defined an accretion as the addition of a relatively small group of employees to an existing unit when these additional employees share a sufficient community of interest with the unit employees. **Safety Carrier, Inc., 306 NLRB 960, 969 (1992).** In **Safeway Stores, Inc., 256 NLRB 918 (1981)**, the Board described its test as requiring that the group to be accreted have "little or no separate identity" and "have an overwhelming community of interest with the unit." In determining whether the new employees share sufficient common interests with members of the existing bargaining unit, the Board weighs various factors including integration of operations, centralization of management and administrative control, geographic proximity, similarity of working conditions, skills, and functions, common control of labor relations, collective-bargaining history and interchange of employees. **Ryder Integrated Logistics, Inc., 329 NLRB 1493, 1499 (1999).** The Board has further noted that because the accretion process does

not accord employees any representational choice, the Board will follow a restrictive policy in its application. **Dennison Manufacturing, Co., 296 NLRB 1034, 1036 (1989).**

Based on the factors enumerated above, it is clear that the Cleveland drivers do not have an overwhelming community of interest with the existing unit, and thus, do not constitute an accretion to the existing unit. First, there is no evidence of interchange or transfer of drivers between the established fourteen county Teamster operation and the new four county Cleveland operation. The lack of interchange between the unit drivers and the Cleveland drivers provides strong support for the Employer's argument against inclusion. **Pilot Freight Carriers, Inc., 208 NLRB 853, 858 (1974).** Also, the day-to-day control and supervision of the unit drivers is separate from the Cleveland drivers. The Board has often noted that separate day-to-day supervision is a significant factor that establishes no accretion exists between groups of employees. **Towne Ford Sales, 270 NLRB 311, 312 (1984).** Moreover, the unit drivers and Cleveland drivers report to work at separate facilities. The Cleveland drivers also operate box vans that are separately leased by the Employer and do not require a Class A CDL to operate, while unit drivers operate beer bay trucks which require a Class A CDL. In addition, there is no history of collective bargaining between the parties involving the Cleveland area drivers. In fact, the Cleveland drivers have a separate bargaining history as a separate unit with a different Teamsters local.

In arguing that the operations are integrated, the Petitioner places great emphasis on the fact that Teamster warehousemen bundle the wine products at the Employer's Youngstown warehouse that are eventually delivered by the Cleveland drivers. However, after the wine products are bundled at the warehouse, the bundles are driven to the Streetsboro cross-docking facility where they are off-loaded, cross-docked, and reloaded onto the box vans for actual delivery by the Cleveland drivers. The Cleveland drivers are not involved in this process and have no interaction with the Teamsters drivers or warehousemen who initially handle the bundles. Thus, while it is true that the Teamsters represented employees initially handle the wine products for the Cleveland drivers, this is not the type of integration the Board relies on in making an accretion finding because it lacks significant interchange and interaction of the employees in question. **Safety Carrier at 970.** Accordingly, I find that the Cleveland drivers are not an accretion to the existing bargaining unit, as there is not a sufficient community of interest to warrant their inclusion in said unit.

Based on the foregoing, and the record as a whole, I shall order that the unit clarification petition be dismissed.

### **ORDER**

**IT IS HEREBY ORDERED** that the petition be dismissed.

### **RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14<sup>th</sup> Street, N.W., Washington, D.C. 205700001. This request must be received by the Board in Washington by August 14, 2006.

Dated at Cleveland, Ohio, this 31<sup>st</sup> day of July, 2006.

/s/ [Frederick J. Calatrello]

Frederick J. Calatrello  
Regional Director  
National Labor Relations Board  
Region 8